

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

FILED

JAN 10 2013

Clerk, U.S District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

CR 12-44-M-DWM

Plaintiff,

vs.

FINDINGS & RECOMMENDATION
CONCERNING PLEA

SCOTT LEE HUBENY,

Defendant.

The Defendant, by consent, has appeared before me under Fed. R. Crim. P. 11 and has entered a plea of guilty to one count of theft of government money in violation of 18 U.S.C. § 641 (Count I), as set forth in the Information.

After examining the Defendant under oath, I have made the following determinations:

1. That the Defendant is fully competent and capable of entering an informed and voluntary plea,
2. That the Defendant is aware of the nature of the charge against him and consequences of pleading guilty to the charge,
3. That the Defendant fully understands his constitutional rights, and the

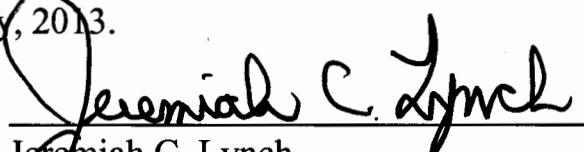
extent to which he is waiving those rights by pleading guilty, and

4. That the plea of guilty is a knowing and voluntary plea, supported by an independent basis in fact sufficient to prove each of the essential elements of the offense charged.

The Court further concludes that the Defendant had adequate time to review the Plea Agreement with counsel, that he fully understands each and every provision of the agreement and that all of the statements in the Plea Agreement are true. Therefore, I recommend that the Defendant be adjudged guilty of Count I of the Information, and that sentence be imposed.

This report is forwarded with the recommendation that the Court defer a decision regarding acceptance until the Court has reviewed the Plea Agreement and the presentence report.

DATED this 10th day of January, 2013.



Jeremiah C. Lynch
United States Magistrate Judge